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fall in defendant's market place, due to obstructions and refuse on the floor, evidence held to sustain a verdict for plaintiff.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. § 1812; Dec. Dig. § 857.* 10 Va.-W. Va. Enc. Dig. 217.]

Error to Court of Law and Chancery of City of Norfolk.

Action by Esther Anthony against the City of Norfolk. Judgment for plaintiff, and defendant brings error. Affirmed.

George Pilcher, of Norfolk, for plaintiff in error.

S. M. Brandt, of Norfolk, for defendant in error.

KLAFF *v.* PRATT.

Sept. 9, 1915.

[86 S. E. 74.]

1. Contracts (§ 116*)—Restraint of Trade—Test of Reasonableness.

—Whether the restraint of one agreeing not to engage in a certain business within certain limits for a certain time is reasonable is to be determined by considering whether it is only as to afford fair protection to the interests of the party for whom it is given, and not so much as to interfere with the interests of the public.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 542-552; Dec. Dig. § 116.* 11 Va. & W.-Va. Enc. Dig. 937.]

2. Contracts (§ 141*)—Contracts in Restraint of Trade—Burden of Proof.—A party who seeks to enforce a contract in restraint of trade, such as an agreement not to engage in a certain business in a certain vicinity for a specified time, must show that it is reasonable.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 461, 1760, 1761, 1785; Dec. Dig. § 141.* 11 Va.-W. Va. Enc. Dig. 938.]

3. Contracts (§ 116*)—Contracts in Restraint of Trade—Test of Injury to Public.—Where the tendency of an agreement not to engage in a certain business for a specified time is to lessen competition, or raise the price of commodities, it is injuries to the public, and unenforceable.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 542-552; Dec. Dig. § 116.* 11 Va.-W. Va. Enc. Dig. 939.]

4. Injunction (§ 128*)—Evidence—Contracts in Restraint of Trade—Establishment.—Valid agreements in restraint of trade must be established by clear and satisfactory proof, to justify a court in restraining their breach by injunction. Their terms and the consideration on which they are founded must be certain.

[Ed. Note.—For other cases, see Injunction, Cent. Dig. § 278; Dec. Dig. § 128.* 7 Va.-W. Va. Enc. Dig. 590.]

5. Injunction (§ 61*)—Contracts in Restraint of Trade—Enforcement—Propriety.—Where defendant, a citizen of Virginia, contracted

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

with a citizen of Massachusetts, a stockholder in a Maine corporation, which was engaged in the business of dealing in hides and skins, and rendering tallow, bones, grease, and dead animals, in Norfolk, Va., that he would not engage in such businesses in the city where the corporation operated, or within a radius of 40 miles thereof, for 7 years, the evidence in the stockholder's suit, seeking to restrain defendant from engaging in such businesses, failing to show that the restraint sought to be imposed by the agreement upon the defendant was such only as was necessary to fairly protect the plaintiff's interests, but showing that the agreement was injurious to the public, as tending to lessen competition and affect prices of the commodities mentioned in the agreement, such contract will not be enforced by injunction.

[Ed. Note.—For other cases, see *Injunction*, Cent. Dig. §§ 120-123; Dec. Dig. § 61.* 7 Va.-W. Va. Enc. Dig. 590.]

Appeal from Law and Chancery Court of City of Norfolk.

Suit by Dwight M. Pratt against Isaac Klaff. Decree for plaintiff, and defendant appeals. Reversed and annulled, and decree entered dismissing the bill.

Jas. G. Martin, of Norfolk, for appellant.

A. B. Seldner, of Norfolk, for appellee.

SPRINGS *v.* VIRGINIA RY. & POWER CO.

Sept. 9, 1915.

[86 S. E. 65.]

1. Railroads (§ 348*)—Action for Injuries—Contributory Negligence
—Evidence.—In an action for personal injuries in being struck by an electric car evidence held to show that plaintiff was guilty of contributory negligence in crossing the street without looking.

[Ed. Note.—For other cases, see *Railroads*, Cent. Dig. §§ 1138-1150; Dec. Dig. § 348.* 11 Va.-W. Va. Enc. Dig. 591.]

2. Railroads (§ 327*)—Contributory Negligence—Person Crossing Tracks.—The duty to look and listen before crossing a railway track, which is imposed upon travelers upon a highway, continues as long as the occasion for the exercise of such duty continues, and if there is any point at which by looking and listening the person injured could have avoided the accident and he failed to do so, his contributory negligence defeats a recovery.

[Ed. Note.—For other cases, see *Railroads*, Cent. Dig. §§ 1043-1056; Dec. Dig. § 327.* 11 Va.-W. Va. Eng. Dig. 592.]

Error to Circuit Court, Norfolk County.

Action by A. A. Springs against the Virginia Railway & Power

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.